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SUPREME COURT, U. S.

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APPENDIX

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MICHAEL BOGAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-1309

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JEFFREY COLE BIGELOW,

*Appellant,*

—v.—

COMMONWEALTH OF VIRGINIA,

*Appellee.*

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ON APPEAL FROM THE SUPREME COURT OF VIRGINIA

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JURISDICTIONAL STATEMENT FILED FEBRUARY 22, 1974

JURISDICTION NOTED JULY 2, 1974

DOCKET ENTRIES

May 13, 1971 Warrant of Arrest Issued

May 27, 1971 Judgment of Conviction,  
Albemarle County Court:  
Appeal Noted to Albemarle  
County Circuit Court

July 15, 1971 Judgment of Conviction,  
Albemarle County Circuit  
Court

August 31, 1971 Notice of Appeal to Supreme  
Court of Virginia Filed in  
Circuit Court of Albemarle  
County

September 1, 1972 Judgment of Conviction  
Affirmed by Supreme Court  
of Virginia

November 27, 1972 Notice of Appeal to Supreme  
Court of United States  
Filed in Supreme Court of  
Virginia

November 26, 1973 Judgment of Conviction  
Reaffirmed by Supreme Court  
of Virginia

December 17, 1973 Notice of Appeal to Supreme  
Court of United States  
Filed in Supreme Court of  
Virginia

## WARRANT OF ARREST

COMMONWEALTH OF VIRGINIA,  
COUNTY OF ALBEMARLE, to-wit:

To the Sheriff of the County of Albemarle  
or any Police Officer

Whereas, Leon J. Podles, Jr. of said County,  
has this day made complaint and information  
on oath before me, D.D. Hudson, Jr. of said  
County, that Jeffery C. Bigelow in the said  
County on the 8 day of February, 1971, did un-  
lawfully by publication, advertisement, sale  
or circulation of the Virginia Weekly, encou-  
rage or prompt the procuring of abortion in  
violation of Sec. 18.1-63 of the Code of  
Virginia in violation of the laws of the Com-  
monwealth of Virginia:

These are therefore, in the name of the  
Commonwealth of Virginia, to command you forth-  
with to apprehend and bring before the Judge  
of said County, the body (bodies) of the above  
accused to answer said complaint and to be  
further dealt with according to law. You are  
also directed to summon the following wit-  
nesses to appear before said Judge at the  
hearing of said case on the 21 day of May,  
1971.

Given under my hand and seal this 13 day  
of May 1971.

D. D. Hudson, Jr.

**Stipulation of Facts**

VIRGINIA:

IN THE  
CIRCUIT COURT OF ALBEMARLE COUNTY

---

COMMONWEALTH OF VIRGINIA

v.

JEFFREY C. BIGELOW

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The following facts are stipulated for purpose of appeal  
in the above styled case:

Jeffrey C. Bigelow was a director, managing editor, and responsible officer of the Virginia Weekly, a newspaper published by the Virginia Weekly Associates of Charlottesville, Virginia, and distributed in the Charlottesville area.

On February 8, 1971, the Virginia Weekly Volume V, number 6, was published and circulated in Albemarle County, Virginia, and in particular on the grounds of the University of Virginia, which is in the jurisdiction of Albemarle County, and said publication and circulation were the direct responsibility of Jeffrey C. Bigelow.

The February 8 Issue of the Virginia Weekly carried an advertisement on page 2, which is in evidence in this case, and said ad is incorporated into this factual stipulation by reference thereto.

Erratum

The continuation of the  
Stipulation of Facts will  
be found at p. 8.

**Judgment of Conviction****VIRGINIA:****AT A CIRCUIT COURT HELD FOR THE COUNTY OF ALEBEMARLE  
ON THE 15TH DAY OF JULY, 1971****APPEAL FROM COUNTY COURT #2483**

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**COMMONWEALTH OF VIRGINIA****vs.****JEFFERY C. BIGELOW**

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**Present:—Hon. David F. Berry**

On this the 15th day of July, 1971 came the Attorney for the Commonwealth and the defendant, Jeffery C. Bigelow, and came also his attorney, John C. Lowe.

Whereupon the accused was arraigned and pleaded Not GUILTY to the charge in said warrant.

And after being advised by the Court of his right to trial by jury, and the accused knowingly and voluntarily waived trial by jury and with the concurrence of the Attorney for the Commonwealth and of the Court, here entered of record, the Court proceeded to hear and determine the case without a jury and having heard the evidence and argument of counsel, doth find the accused guilty of "by publication advertisement, sale or circulation of the Virginia Weekly, encourage or prompt the procuring of abortion in violation of Sec. 18.1-63 of the Code of Virginia" as charged in the warrant.

The Court doth ADJUDGE and ORDER that the defendant pay, and the Commonwealth recover a fine of \$500.00 and costs of \$..... The Court doth however suspend \$350.00 of said fine, conditioned upon no further violation of Section 18.1-63 of the Code of Virginia.

Thereupon, the defendant was allowed to depart.

DAVID F. BERRY, *Judge*

**Notice of Appeal**

[Filed November 27, 1972]

IN THE  
SUPREME COURT OF VIRGINIA  
Record No. 7972

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**JEFFREY COLE BIGELOW,***Appellant,*

v.

**COMMONWEALTH OF VIRGINIA,***Appellee.*

---

**From the Circuit Court of Albermarle County****DAVID F. BERRY, Judge**

**NOTICE OF APPEAL TO THE SUPREME COURT  
OF THE UNITED STATES**

Notice is hereby given that Jeffrey C. Bigelow, appellant in the above-stated case, hereby appeals to the Supreme Court of the United States from the final Judgment of the Supreme Court of Virginia entered on September 1, 1972.

This appeal is taken pursuant to 28 U.S.C. Section 1257 (2).

Date:

**F. GUTHRIE GORDON, III**

**JOHN C. LOWE**

**1111 West Main Street**

**Charlottesville, Virginia 22903**

*Attorneys for Appellant*

**Remand Order of the United States Supreme Court**

SUPREME COURT  
OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, D. C. 20543

June 25, 1973

Melvin L. Wulf, Esq.  
ACLU Foundation  
22 East 40th St.  
New York, N. Y. 10016

RE: BIGELOW v. VIRGINIA,  
No. 72-932,

Dear Sir:

The Court today entered the following order in the above-entitled case:

The judgment is vacated and the case is remanded to the Supreme Court of Virginia for further consideration in light of *Roe v. Wade*, 410 U.S. 113 (1973); and *Doe v. Bolton*, 410 U.S. 179 (1973).

Very truly yours,

MICHAEL RODAK, JR., Clerk

By /s/ HELEN TAYLOR, (Mrs.)  
Assistant Clerk

D. PATRICK LACY, JR., Esq.  
Asst. Attorney General of Va.  
Supreme Court—Library Bldg.  
1101 East Broad St.  
Richmond, Va. 23219

There is no contest on the factual issue of the printing of the advertisement. The only issue is in whether the advertisement violates Virginia law, and if so, whether Virginia law is unconstitutional.

Also in evidence is a June, 1971 issue of Redbook magazine, carrying abortion information from across the United States. Redbook magazine is distributed in Virginia and in Albemarle County.

F. GUTHRIE GORDON, III  
Lowe and Gordon  
1111 West Main Street  
Charlottesville, Virginia  
*Counsel for*  
*Jeffrey C. Bigelow*

DOWNING L. SMITH  
Downing L. Smith  
- *Commonwealth's Attorney*  
*for Albemarle County*  
301 County Office Bldg.  
Charlottesville, Virginia

**Notice of Appeal**

[Filed December 20, 1973]

IN THE  
SUPREME COURT OF VIRGINIA  
Record No. 7972

---

JEFFREY COLE BIGELOW,*Appellant,*

v.

COMMONWEALTH OF VIRGINIA,

*Appellee.*

---

FROM THE CIRCUIT COURT OF ALBEMARLE COUNTY  
DAVID F. BERRY, *Judge.*NOTICE OF APPEAL TO THE  
SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Jeffrey C. Bigelow, the Appellant in the above stated case, hereby appeals to the Supreme Court of the United States from the final judgment of the Supreme Court of Virginia entered on November 26, 1973.

This appeal is taken pursuant to 28 U.S.C. §1257(2).

Date:

December 17, 1973

/s/ F. GUTHRIE GORDON, III

JOHN C. LOWE

1111 West Main Street

Charlottesville, Virginia 22903

*Attorneys for Appellant*